



PAUL R. LePAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
194 MAIN STREET
EAST MILLINOCKET, MAINE 04430

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

GREAT PONDS PERMIT GP 3396; EC 14-05

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Carolyn Simone for Great Ponds Permit GP 3396, finds the following facts:

1. Applicant: Carolyn Simone
PO Box 1008
Millinocket, ME 04462
2. Date of Completed Application: June 10, 2014
3. Location of Proposal: Indian Purchase Number 3 Township, Penobscot County
Lot #102.1 & 102.2 on Plan 09, Map PE032
4. Zoning: (D-RS) Residential Development Subdistrict
5. Affected Waterbody: Smith Pond

The Commission has identified Smith Pond as a resource class 2, management class 5, relatively developed, relatively accessible waterbody with significant fisheries.

Administrative History:

6. The applicants' 1.39 acre lot with approximately 150 feet of shore frontage is developed with a reconstructed 24 foot by 36 foot dwelling unit located 34 feet from the normal high water mark of Smith Pond instead of at a location 75 feet from Smith Pond as authorized in Building Permit BP 3116 and is served by a combined sewage disposal system. A 24 foot by 18 foot addition located 34 feet from the shoreline, a 26 foot by 40 foot addition located 59 feet from the shoreline, and a 17.5 foot by 8.5 foot addition located 25 feet from the shoreline were all constructed onto the permanent home without amending Building Permit BP 3116 and in violation of the Commission's minimum setback requirement of 75 feet from the shoreline of Smith Pond applicable at the time. A 10 foot by 6 foot pole shelter with cement flooring, a 5 foot by 5 foot brick barbeque pit located approximately 25 feet from the shoreline, and a 12 foot by 18 foot stone patio located 60 feet from the shoreline of Smith Pond were all constructed without prior Commission approval and in excess of 100 foot minimum shoreline setback standard applicable at the time. The lot is further developed with a 24 foot by 20 foot garage located 131 feet from the normal high water mark of Smith Pond. [Reference: Building Permit BP 3116, Enforcement Case EC 97-083, Active, & Enforcement Case EC 14-05, Active].

7. In 2005, Michael & Carolyn Simone constructed, or caused to be constructed, a 24 foot by 3 foot cement block retaining wall with cement stairs, 0 feet from the shoreline of Smith Pond without prior Commission approval and in excess of applicable Commission standards. [Reference: Enforcement Case EC 14-05; Active].

Proposal:

8. The applicant now seeks approval to remove the retaining wall and to slope back the shoreline by removing fill material and then adding 3 to 4 inches of erosion control mulch in order to prevent the shore from eroding. The re-graded area would extend from the normal high water mark to approximately 6 feet shoreward for a distance of approximately 24 feet along the shore. The grade would be no steeper than three horizontal to one vertical (3:1). The applicant also proposes to place an anchoring row of large rocks at the base of the bank 0 feet from the normal high water mark and to plant native shrubs and plants in a staggered pattern into the bank and at the top of the bank.
9. The applicant also proposes to remove the existing cement stairs and install three 2 foot by 3 foot cedar timber frame box stairs filled with crushed stone. The timber frame stairs would be placed at or above the normal high water mark ascending the slope.
10. The total area altered by the entire project would be approximately 27 linear feet along the shoreline above the normal high water mark. All work would be done from the shore during a period when the water level is lower than the work area. Hay bales will be used to control sedimentation and erosion during construction.

Review Criteria:

11. Under the provisions of Section 10.21,J,3,c(16) of the Commission's Land Use Districts and Standards, the proposed shoreline stabilization is a permitted use in a (D-RS) Residential Development Subdistrict.
12. The facts are otherwise as represented in Great Ponds Permit Application GP3396 and supporting documents.

Based upon the above Findings, the staff concludes that if carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Carolyn Simone with the following conditions:

1. The Standard Conditions for Shoreland Alterations (ver. 4/91), a copy of which is attached.
2. Two days prior to the start of commencing the permitted activities, the permittee must notify the Commission staff of the start of the activity.
3. The applicant shall use erosion control mix as defined in the Maine Department of Environmental Protection "Erosion Control Mix" factsheet (May 2006), a copy of which is attached.

4. The applicant shall plant native shrubs and plants interspersed within and at the top of the bank. The applicant shall monitor plantings and plantings must be replaced or maintained as necessary to achieve 85% survival after one full growing season.
5. All work must be done when the lake level is lower than the work area. No machinery shall operate below the normal high water mark of Smith Pond.
6. All areas of exposed mineral soil must be immediately mulched so as to avoid soil erosion and lake sedimentation.
7. The total area altered by the project must be limited to approximately 27 linear feet along the shoreline and extending to approximately 6 feet shoreward from the normal high water mark.
8. The permittees shall install staked hay bales between the construction site and the lake, prior to commencement of construction unless the project can be completed within one day, including the planting and mulching. Once implemented or put in place, erosion control devices and measures shall be maintained to assure proper functioning.
9. Excavated fill, and any other debris generated during construction must be immediately removed from the lot and disposed of in a proper manner, in compliance with applicable state and federal solid waste laws and rules.
10. Should any erosion or sedimentation occur during construction, the permittees shall cease construction and contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.
11. Nothing in this permit shall be construed to release the permittee from any liability or responsibility arising from any violation, including Enforcement Cases EC 97-083 and EC 14-05, or to be considered a waiver of the authority of the Commission or the State to fully pursue or prosecute such violations.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT EAST MILLINOCKET, MAINE,
THIS 16th DAY OF JUNE, 2014.

By:



for Nicholas D. Livesay, Executive Director